



U.S. Bankruptcy Judges. From left: Gregory F. Kishel, Nancy C. Dreher, Robert J. Kressel, Dennis D. O'Brien.

United States Bankruptcy Court for the District of Minnesota

The first comprehensive bankruptcy law in the United States was the Bankruptcy Act of 1898. Jurisdiction over bankruptcy cases was vested in the United States district courts, which were designated in the Bankruptcy Act as "courts of bankruptcy." The Bankruptcy Act provided for the appointment of bankruptcy referees. United States District Court Judge William Lochren immediately appointed twelve part-time referees to sit around the state of Minnesota, covering every part of the state from Winona to Marshall, from Crookston to Duluth. The referees were assigned cases in specific counties. While these appointments provided an immediate presence of the federal court in virtually every part of the state, it turned out to be inefficient and over the years the various referee offices were consolidated.

Herbert M. Bierce, one of these early referees, was nationally prominent. He sat in Winona from 1918–1951. He helped found the National Conference of Referees in Bankruptcy in 1926 and was the first editor-in-chief of the *Journal of the National Conference of Referees in Bankruptcy*, from 1926–1949. The journal that he pioneered is now called the *American Bankruptcy Law Journal* and is one of the premier law reviews on the subject of bankruptcy. It is still published by the organization that he helped found, now known as the National Conference of Bankruptcy Judges.

Over the years, the court of bankruptcy in Minnesota evolved towards full-time referees sitting in the Twin Cities. George A. Heisey was appointed in 1945, later becoming the district's first full-time referee, sitting in Minneapolis and Duluth. Referee James Giblin followed in 1948, sitting in St. Paul and assuming responsibility for most of the rest of the state. From 1950 to 1958, Heisey and Giblin were Minnesota's only referees.

By 1966, there were four full-time bankruptcy referees serving Minnesota, all stationed in the Twin Cities.²² In recognition of the fact that the business of the district court, sitting in its capacity as the court of bankruptcy, had become substantial and specialized, Chief District Judge Edward Devitt designated Referee Kenneth G. Owens as the district's "executive referee."

22. Also in 1966, the Judicial Conference of the United States authorized the appointment of a full-time referee in bankruptcy for the District of North Dakota who might also handle bankruptcy cases in the northwest quadrant of Minnesota. This arrangement continued until Congress passed the Bankruptcy Amendments and Federal Judgeship Act of 1984.

In 1973, the Supreme Court for the first time promulgated bankruptcy rules. Three major changes were made regarding the bankruptcy referees. The jurisdiction of the courts of bankruptcy was expanded, the referees were authorized to make final orders in most matters in a bankruptcy case, subject only to review by a district judge under ordinary appellate standards, and the title of the referee was changed to bankruptcy judge. Three years later in 1976, the district court in Minnesota gave all its bankruptcy judges district-wide jurisdiction.

The Bankruptcy Reform Act of 1978 totally reorganized the method for handling bankruptcy cases. Effective October 1, 1979, a separate United States Bankruptcy Court was created for each judicial district. A transition period through March 31, 1984 was designated, during which time the bankruptcy courts were to be "departments" of district courts and continue to be appointed by the District Court. At the end of this transition period, the bankruptcy courts would become "adjuncts" to the district courts and bankruptcy judges would be appointed by the President for terms of fourteen years.

The contemplated transition never occurred. In an appeal from bankruptcy court, the United States District Court for the District of Minnesota determined that the arrangement provided by the Bankruptcy Reform Act of 1978 was unconstitutional. *Marathon Pipeline Co. v. Northern Pipeline Construction Co.*, 12 B.R. 946 (D.Minn.1981). The Supreme Court agreed in *Northern Pipeline Construction Co. v. Marathon Pipeline Co.*, 458 U.S. 50 (1982). Since bankruptcy judges did not have lifetime tenure and the salary guaranties of Article III of the Constitution, they could not be vested with the broad jurisdiction that the Bankruptcy Reform Act had given them. The new bankruptcy courts were left without any authority.

In the summer of 1984, Congress reacted to the Supreme Court's *Marathon* decision and passed the Bankruptcy Amendments and Federal Judgeship Act of 1984, reconstituting the bankruptcy court as a unit of the district court. Other provisions sought to cure any constitutional problems with the Bankruptcy Reform Act of 1978. Appeals from bankruptcy cases and cases in which a jury is required are handled by the district court. The Act also eliminated all part-time bankruptcy judge positions in the country, effective two years after its enactment. The half-time position that had existed in Duluth since 1970 was thus terminated in July of 1986. The act also contained a provision for appointment by the district court of a chief bankruptcy judge. As a result, John J. Connelly became Minnesota's first chief bankruptcy judge in 1984.

Bankruptcy judges serve 14 year terms. The bankruptcy court presently has four judges: Chief Judge Robert Kressel, Judge Dennis O'Brien, Judge Gregory Kishel, and Judge Nancy Dreher. Judge Margaret Mahoney, who was appointed in 1983, was the first woman to serve. With her appointment in 1988, Judge Dreher became the forty-eighth in a line of men and women to serve the District of Minnesota as

bankruptcy referees and bankruptcy judges and the eleventh to occupy that position on a full-time basis. Judges Kressel and Dreher are headquartered in Minneapolis; Judges O'Brien and Kishel are in St. Paul. They all also hear cases in Duluth, Fergus Falls, and Mankato.



**Bankruptcy Court Clerk,
Timothy R. Walbridge.**

The bankruptcy judges are assisted by the Clerk of the Bankruptcy Court for the District of Minnesota and his office. The first person to hold that official title is Timothy R. Walbridge who started his service as chief clerk for the Minneapolis office of the bankruptcy court in 1976. Bankruptcy case filings increased from only 3,296 in 1978 to more than 14,000 in 1988. The office of the clerk is now staffed with 51 deputy clerks and maintains offices at Duluth, Fergus Falls, Minneapolis and St. Paul.